



June 9, 2008

HOUSING AFFORDABILITY REPORT

Subject: Recommended Options for Action by the County Government Related to
Housing Affordability

From: Planning and Land Use Committee, Montgomery County Civic Federation

This MCCF committee report is intended as a springboard for discussion, by Federation members as well as County officials, of possible county government actions related to housing affordability in Montgomery County.

The term "affordable housing" is most often used to refer to specific existing government programs: the Section 8 Federal housing voucher program; and, the County's Moderately Priced Dwelling Unit (MPDU) Program and Workforce Housing Program. In this report, the committee has attempted to address the larger issue of "housing affordability" by assessing not only issues related to existing program initiatives, but also certain actions of government which can have an influence on the private housing market and impact, in negative or positive ways, the affordability of housing in the County.

Some recommendations in this report are related to County or State proposals, while others are being proposed by the committee based on experience in other jurisdictions. The committee has tried to ensure that all options presented in this report are in alignment with the Federation's positions of record on land use and zoning issues, which have been adopted in the past by the voting delegates of the Federation--most notably, MCCF support of adherence to master plans, to insure their predictability and reliability, and of efforts to preserve the current quality of life and existing character of residential neighborhoods.

Recommendations

Calculate the scale of the problem

For several years, some elected and appointed officials have decried the lack of housing affordability, declaring that many County employees cannot afford to live in the county in which they work. Statistics have been quoted by certain departments, agencies, and county employee unions as to the number of their employees or members that do not currently live in the county; but, the committee considers these statistics to be of little value. We believe that the appropriate objective should be to calculate how many of the county employees not living here would move back if they could find affordably priced and appropriate housing (for example, employees with families may not wish to live in a multi-family building in a

Metro Station Policy Area), and then to determine what housing type and price point would be adequate to entice them to relocate back to the county.

When Fire Chief Tom Carr, Director of the Department of Fire and Rescue Services, addressed the delegates at the March 2008 MCCF meeting, he estimated that 80% of DFRS' 1,300 employees do not live in the county (1,000 or so) but that only 10% of that number (100 or so) would move back if they could find affordably priced and appropriate housing. This estimation provides at least a ballpark goal should one effort of government be to create employer-assisted housing, a recommendation made later in this report.

The Montgomery Coalition for the Homeless conducted a one-day census in January 2007, and reported 1,139 homeless individuals in the County. Again, the committee finds that this statistic is less than useful. The appropriate objective is to calculate the total number of dwelling units, and number of bedrooms in those units, needed to house those in need. For example, one currently identified homeless family consists of eleven members and might be accommodated in a four or five bedroom single-family dwelling unit. The census found 65 families with a total of 143 children in shelters. And, homeless individuals of the same gender could be provided with their own bedrooms in dwelling units with multiple bedrooms, rather than in individual one-bedroom units. How many total units, and of what size, are needed to solve the problem of homelessness in the County?

The committee also believes that there is sometimes a careful harvesting by some officials of only those facts that support a position they consider politically advantageous. For example, at the same time last year that some were claiming a lack of workforce income level housing for those earning 80 to 120% of Area Median Income (AMI), the staff of the Research and Technology Center at Park & Planning reported 2006 home sales data that indicated over one-half of all new townhouses offered for sale in the county were priced in a range affordable to workforce income level households. A concerted effort involving officials, residents, and the development industry is needed to address the issue of housing affordability, not through sound bite politicking but by ascertaining the scale of the problem so that realistic solutions can be devised and implemented in a timely fashion.

Preserve and maintain existing affordably priced housing

The committee was pleased to see that the first recommendation in the March 17, 2008 report of the County Executive's Task Force on Affordable Housing was to preserve existing affordably priced housing, especially rental housing. To this end, the strong recommendation of the committee to the Planning Board and County Council is to not rezone properties with affordably priced housing into higher density categories during master plan revisions. Such upzoning only provides an incentive for redevelopment of these properties. Officials may need to find ways to encourage owners of multi-family rental buildings to maintain and upgrade their properties in a way that does not result in drastic increases in rental prices. And, some effort must be given to preventing the conversion of affordably priced multi-family rental properties to condominiums, either through County purchase under right-of-first-refusal for retention as rental units or purchase by the current renters, perhaps as a government-supported housing cooperative.

Much of the effort to preserve and maintain existing affordably priced housing may require funding through the Housing Initiative Fund (HIF), and committee members are especially supportive of the proposal to obtain additional monies for the fund through issuance of taxable bonds with a "subject to appropriation" backed pledge, a funding scheme which should neither increase the burden on taxpayers nor endanger the County's AAA bond rating.

Use Community Land Trust to create affordably priced housing on publicly owned land

The committee encourages officials to think outside the box in finding ways to stimulate creation of affordably priced housing that have not previously been tried in the County. We oppose the practice of selling county owned land outright to developers (for example, Public Parking Lots 6 in Silver Spring and 31 in Bethesda, and the 32-acre site on Bowie Mill Road, Olney), which results in only a small percentage of affordably priced housing units on the property. Instead, we recommend use of the community land trust (CLT) model, whereby publicly owned properties are deeded to a non-profit trust which negotiates long-term low-cost leases to developers in exchange for 100% affordably priced housing units at a variety of price points (for example, 25% of units priced for households earning up to 30% AMI, 25% of units for those earning 30-70% AMI, and 50% of units for those earning 70-120% AMI). Publicly owned properties administered in this fashion would deliver sustainable, maximum long-term benefit, and not be sold off by the county to developers for one-time profit and less than needed results.

This year, the State General Assembly approved legislation that was signed by the Governor, authorizing establishment of a Baltimore City Land Bank. That legislation provides a model for the process of incorporation for a non-profit community land trust in Maryland, and for issues to be addressed in the incorporation papers. We recommend that County officials encourage our State delegation to seek passage of legislation during the next General Assembly session that would authorize establishment of land banks in Maryland counties, or at least in Montgomery. Additional information on CLTs can be accessed online at <http://www.1000friendsofflorida.org/housing/clt.asp> and a nationwide list of CLTs is available at <http://www.communitylandtrust.org/clts.html>

Offer employer-assisted housing for County government and MCPS employees

On April 30, 2007, Councilmember Knapp and three of his colleagues issued a press release announcing their intention to pursue participation of the County government in Maryland's House Keys for Employees program, which matches contributions dollar-for-dollar, up to \$5,000, made to employees for down payment and closing costs by participating employers. Committee members do not know whether funding was appropriated in the FY08 budget or included in the FY09 budget for this program, but our recommendation is that not only the County government participate in this valuable program, as do other county governments in the state, but that private sector employers in the county be encouraged to do so, too.

In the preliminary planning stages for their new headquarters and retail/residential mixed-use project in Silver Spring, to be named SilverPlace, M-NCPPC planned to require a percentage of housing units in the project be set aside as affordably priced, employer-assisted housing for Park & Planning employees. The committee supports this effort, but we do not know whether current plans for SilverPlace still anticipate inclusion of those units in the project.

The committee recommends that county government and MCPS officials investigate the possibility of creating employer-assisted housing programs for their employees, both for rental and purchase of affordably priced dwellings. The experiences of other nearby jurisdictions that have created such programs can help in analyzing the costs and benefits of the various approaches they have instituted.

Alexandria, Virginia has a program to provide moderate income home ownership opportunities to City law enforcement officers. Arlington County, Virginia administers a program entitled Live Near Your Work, which assists eligible Arlington County and school board employees who are first time home buyers to purchase homes in that county. Fairfax's three year old firefighter and paramedic housing program places eligible recruits in one of 10 modest-rent Fairfax area condominiums owned by the county. And Fairfax County Public Schools hosts a webpage listing information on home ownership assistance, a special rental housing program for bus drivers and teachers hired in critical field areas, as well as contact information for rental management companies in that county which offer a variety of deals to FCPS employees, from move-in discounts to monthly rental discounts (<http://www.fcps.edu/DHR/employees/incentives/housing.htm>).

Create new small lot single-family detached home zone category (3000 sq.ft.)

Small lot zoning is being tried in several municipalities across the country and nations across the globe. A zone allowing lots 50' wide by 60' deep, using R-60 zone setbacks except with setback from street reduced to 20', would allow a 20' x 32' house footprint. The average density of ten or more dwelling units per acre, compared with six in the R-60 zone, coupled with efforts to hold down construction costs, could result in a new breed of affordably priced single-family detached dwellings. This new zone could then be recommended to be applied to appropriate locations in future comprehensive master plan revisions, a process which can better assess the need for supportive infrastructure that will be required in the entire planning area and adjacent areas (additional road and transit capacity, schools, parks and recreation facilities) than limited master plan amendments focused on only a few select properties.

Impose affordable housing tax on all development not required to provide affordable units

The committee recommends that an Affordable Housing Impact Tax be imposed on all new commercial development, as well as on any residential development project not required to provide affordable dwelling units (including new infill and teardown/rebuild single-family homes), with the revenue dedicated for the Housing Initiative Fund. All development in the County would then be contributing to the solution of the housing affordability issue, either through provision of affordable units or funding for the HIF.

Do not provide additional developer bonuses in exchange for MPDUs & workforce units

Starting in 1985, several rounds of bonuses have been granted to developers in exchange for their providing required MPDUs in projects--approval of alternative building types (allowing MPDU townhouses in a single-family detached home zone, or a multi-family MPDU apartment building in a townhouse zone), reduction in required setbacks from adjacent properties, and allowance to provide public use space required in certain projects in an offsite location or buy out of the requirement. The committee believes that such bonuses have compromised the integrity of the County zoning ordinance as well as area master plans.

The current legislative proposal from County Executive Leggett to allow additional height and density over master plan recommended levels up to the full amount allowed by the zone, in order to accommodate MPDUs required in a project, will further compromise County master plans. When a master plan recommends a height or density for a property that is less than the full amount allowed by the zoning, it is almost always done in order to ensure compatibility of future development on the property with that on adjacent properties. Thus, allowing additional height and density over master plan recommended levels will insure incompatibility. And, compatibility is a finding the Council must make in approving Development Plans for projects as part of rezoning cases, and the Planning Board must make in approving Project Plans and Site Plans.

This latest MPDU bonus is being proposed in response to a claim by developers that MPDUs are a money-losing proposition. However, such a bonus will provide financial benefit only to developers who have already purchased or have contracts on properties, since the price of properties will go up as soon as owners realize that additional height and density are being granted. Then, still further bonuses will likely be sought by developers in order to achieve the desired profit margin. It is a never-ending cycle, unless broken. Also, the additional height and density proposed to be granted to accommodate MPDUs will not increase the number of allowable units, but only increase the size of units--market rate units not MPDUs--allowing developers to charge more for market rate units to underwrite the cost of providing MPDUs. Committee members are firm in our belief that the County Executive's proposal will result in higher prices being charged for market rate housing.

During the December 1, 2007 Form-Based Zoning Code forum hosted by Park and Planning, Lee Einsweiler, with the Code Studio in Austin, Texas, advised that in a form-based zone that allowed up to 4-story buildings, for example, no additional height need be granted to projects in exchange for provision of required price-controlled dwellings. He stated that many municipalities and county governments across the nation require a percentage of affordably priced units in new residential development without granting additional height or square foot density, or decreased setbacks, to those projects; and, developers provide the units within imposed building standards and still make a profit.

For years, developers in Montgomery County have been emboldened to overbid on properties, confident that the Council and Planning Board would support changing building standards or disregarding master plan recommendations for specific properties so that projects would generate a desired profit margin. Once developers understand that no further compromise of zoning standards or master plans will be allowed, the likelihood is that they will rapidly cease their practice of overbidding on properties.

Do not change accessory apartment approval process

The committee strongly recommends retaining the current approval process for accessory apartments, requiring a Hearing Examiner opinion and Board of Appeals hearing. The Board is comprised of citizen servants who are tasked in this process with guarding against negative impact on neighborhoods, due either to undue concentration of such units or other reasons. We advise against transfer of approval authority to the Director DHCA, an appointee who may not even live in the county and whose job performance is assessed, in part, on the number of affordable housing units created under their departmental administration.